

frivolous disputes to consumers, 0.23 hour.

*Estimated annual burden hours:*

Negative information notice, 363 hours; Affiliate marketing: Notices to consumers, 24,858 hours, and Consumer opt-out response, 125,027 hours; Identity theft red flags, 81,622 hours; Address discrepancies, 5,800 hours; Risk-based pricing: Notice to consumers, 87,000 hours; Furnisher duties: Policies and procedures, 58,000 hours, and Notice of frivolous disputes to consumers, 140,737 hours.

*General description of report:* The FCRA was enacted in 1970 based on a Congressional finding that the banking system is dependent on fair and accurate credit reporting.<sup>2</sup> The FCRA requires consumer reporting agencies to adopt reasonable procedures that are fair and equitable to the consumer with regard to the confidentiality, accuracy, relevancy, and proper utilization of consumer information.<sup>3</sup> The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), enacted in 2010, transferred to the Bureau most, but not all, of the rulemaking authority for issuing regulations under the FCRA.<sup>4</sup> The Board and other federal agencies retained rulemaking responsibility for the FCRA provisions regarding identity theft prevention programs and the duties of card issuers to validate consumers' changes of address (hereinafter, identity theft red flags), as well as the disposal of consumer information, with respect to the entities that are subject to each agency's respective enforcement authority.<sup>5</sup> The Board and Federal Trade Commission (FTC) also retained rulemaking authority for certain provisions of the FCRA applicable to motor vehicle dealers.<sup>6</sup> In addition, the

Board is authorized to enforce compliance with the information collection requirements contained in the Bureau's FCRA regulations applicable to institutions<sup>7</sup> identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets, and applicable to consumers of these institutions.

*Legal authorization and confidentiality:*

As amended by sections 1025 and 1088(a)(10) of the Dodd-Frank Act, the Board is authorized to enforce compliance with the information collection requirements contained in the Bureau's FCRA regulations (Appendix B to 12 CFR part 1022; and 12 CFR 1022.20–.27, 1022.40–.43, 1022.70–.75, and 1022.82) applicable to institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets, and applicable to consumers of these institutions (See 15 U.S.C. 1681s(b); 12 U.S.C. 5515). Additionally, pursuant to section 1088(a)(2) and (10) of the Dodd-Frank Act, the Board retained authority under the FCRA to prescribe and enforce the information collection requirements in the Board's FCRA regulations relating to identity theft red flags (12 CFR 222.90–.91) for institutions of any size, which are identified in 15 U.S.C. 1681s(b)(1)(A)(ii) (See 15 U.S.C. 1681m(e), and 1681s(b) and (e)).

The obligation to comply with the foregoing recordkeeping and disclosure requirements contained in the FCRA regulations prescribed by the Board and the FCRA regulations prescribed by the Bureau is mandatory, except for the consumer opt-out responses, which consumers are required to submit to affiliates of an institution in order to obtain a benefit (*i.e.*, to stop receiving solicitations for marketing purposes). Because the records and disclosures required under the Board's FCRA regulations and the Bureau's FCRA

rulemaking authority for provisions of the federal consumer financial laws, including the FCRA, applicable to certain motor vehicle dealers are not within the Bureau's jurisdiction and must be implemented in regulations issued by the Board or the FTC. The FTC accounts for the PRA burden for motor vehicle dealers' compliance with the FCRA regulations. *See, e.g.*, 78 FR 16265, 16266 n. 11 (Mar. 14, 2013).

<sup>7</sup> Pursuant to the Dodd-Frank Act, for certain federal consumer financial laws, the Bureau has primary enforcement authority over the Bureau's FCRA regulations with respect to, among other entities, insured depository institutions (banks and savings associations) with over \$10 billion in assets and any affiliates thereof. *See* 12 U.S.C. 5515; *see also* 12 U.S.C. 5514(a) and 5516. However, the Board retained enforcement authority over the Bureau's FCRA regulations with respect to depository institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets and consumers of these institutions. *See* 15 U.S.C. 1681s(b); and 12 U.S.C. 5515.

regulations are not provided to the Board, and because all records are maintained at Board-supervised institutions, no issue of confidentiality generally arises under the Freedom of Information Act (FOIA). In the event such records or disclosures are obtained by the Board as part of an examination or supervision of a financial institution, this information is considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in "examination, operating, or condition reports" obtained in the bank supervisory process (5 U.S.C. 552(b)(8)). In addition, certain information (such as records generated during the investigation of a direct dispute notice submitted by a consumer) may also be withheld under exemption 6 of the FOIA, which protects from disclosure information that "would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. 552(b)(6)).

Board of Governors of the Federal Reserve System, March 14, 2019.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

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## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act ("Act") (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 3, 2019.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *John L. Cox, Burr Ridge, Illinois, individually as Special Trustee of the following ten trusts, and together as a group acting in concert with the John L. Cox GST Trust, John L. Cox as Trustee, Edward A. Cox, III GST Trust, Edward*

<sup>2</sup> The FCRA is one part of the Consumer Credit Protection Act, which also includes the Truth in Lending Act, Equal Credit Opportunity Act, and Fair Debt Collection Practices Act. *See* 15 U.S.C. 1601 *et seq.*

<sup>3</sup> *See* 15 U.S.C. 1681.

<sup>4</sup> The Bureau and the Board each have issued regulations implementing the FCRA. On December 21, 2011, the Bureau published an interim final rule establishing a new Regulation V. *See* 76 FR 79308 (Dec. 21, 2011), implementing the Bureau's FCRA regulations in 12 CFR part 1022. The information collection provisions in the Bureau's FCRA regulations are contained in Appendix B to 12 CFR part 1022; and in 12 CFR 1022.20–.27, 1022.40–.43, 1022.70–.75, and 1022.82. The Board's FCRA regulations are implemented in the Board's Regulation V. *See* 12 CFR part 222. The information collection provisions in the Board's FCRA regulations applicable to institutions for which the Board has primary enforcement authority are contained in 12 CFR 222.90–.91.

<sup>5</sup> *See* section 1088(a)(10) of the Dodd-Frank Act, 15 U.S.C. 1681s(b) & (e); *see also* 15 U.S.C. 1681m and 1681w.

<sup>6</sup> *See* section 1029 of the Dodd-Frank Act, 12 U.S.C. 5519(a) & (c), which provides generally that

*A. Cox, III as Trustee, Fontana, Wisconsin, Maureen T. Cox-Scanlon GST Trust, Maureen T. Cox-Scanlon as Trustee, Downers Grove, Illinois, Michael J. Cox GST Trust, Michael J. Cox as Trustee, Rosemary P. Cox-Conway GST Trust, Rosemary P. Cox-Conway as Trustee, Thomas M. Cox GST Trust, Thomas M. Cox as Trustee, Robert J. Cox GST Trust, Robert J. Cox as Trustee, Catherine M. Cox Murphy GST Trust, Catherine M. Cox Murphy as Trustee, Margaret M. Cox-Petrucelli GST Trust, Margaret M. Cox-Petrucelli as Trustee, Mary H. Cox-Coffey GST Trust, and Mary H. Cox Coffey as Trustee, all of Oak Brook, Illinois; to acquire voting shares of Rush-Oak Corporation, and thereby indirectly acquire Oak Bank, both of Chicago, Illinois.*

Board of Governors of the Federal Reserve System, March 14, 2019.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

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**BILLING CODE P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; Comment Request

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Notice.

**SUMMARY:** The FTC plans to ask the Office of Management and Budget (“OMB”) to extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in the Mail, internet, or Telephone Order Merchandise Rule (MITOR). That clearance expires on May 31, 2019.

**DATES:** Comments must be received on or before May 20, 2019.

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write “Paperwork Reduction Act: FTC File No. P072108” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade

Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Jock Chung, 202-326-2984, Attorney, Enforcement Division, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW, Mail Drop CC-9528, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Originally known as the Mail Order Merchandise Rule, the MITOR, 16 CFR part 435 was promulgated in 1975 in response to consumer complaints that many merchants were failing to ship merchandise ordered by mail on time, failing to ship at all, or failing to provide prompt refunds for unshipped merchandise. The Commission amended the Rule, effective on March 1, 1994, to include merchandise ordered by telephone, including by telefax or by computer through the use of a modem (e.g., internet sales), and renamed it the “Mail or Telephone Order Merchandise Rule.” In 2014, the Commission amended the Rule, effective December 8, 2014, to clarify that the Rule covers all internet merchandise orders and permits flexibility in making refunds and refund notices, including refund obligations for non-enumerated payments. 79 FR 55615 (Sept. 17, 2014).

Generally, the MITOR requires a merchant to: (1) Have a reasonable basis for any express or implied shipment representation made in soliciting the sale (if no express time period is promised, the implied shipment representation is 30 days); (2) notify the consumer and obtain the consumer’s consent to any delay in shipment; and (3) make prompt and full refunds when the consumer exercises a cancellation option or the merchant is unable to meet the Rule’s other requirements.<sup>1</sup>

Under the PRA, 44 U.S.C. 3501-3521, Federal agencies must get OMB approval for each collection of information they conduct or sponsor. “Collection of information” includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The FTC is seeking renewed clearance for the

<sup>1</sup> The MITOR does not impose a recordkeeping requirement *per se*. Title 16 CFR 435.1(d) provides, however, that in an action for noncompliance, the absence of records that establish that a respondent-seller uses systems and procedures to assure compliance will create a rebuttable presumption that the seller was not compliant. Merchants customarily keep records regarding their systems and procedures in the ordinary course of business, but their retention of these documents does not constitute a “collection of information” under OMB’s regulations that implement the PRA. See 5 CFR 1320.3(b)(2).

information collection requirements associated with the Commission’s rules and regulations under the MITOR (OMB Control Number 3084-0106).

### Burden Estimates

*Estimated total annual hours burden:* 2,692,350 hours.

In its 2016 PRA-related **Federal Register** Notices<sup>2</sup> and corresponding submission to OMB, FTC staff estimated that established companies each spend an average of 50 hours per year on compliance with the Rule, and that new industry entrants spend an average of 230 hours (an industry estimate) for compliance measures associated with start-up.<sup>3</sup> Thus, the total estimated hours burden was calculated by multiplying the estimated number of established companies × 50 hours, multiplying the estimated number of new entrants × 230 hours, and adding the two products.

No substantive provisions in the Rule have been amended or changed since staff’s 2016 submission to OMB. Thus, the Rule’s disclosure requirements remain the same. Moreover, the Commission received no public comments regarding the above-noted estimates; thus, staff will apply them to the current PRA burden analysis.

Since the prior submission to OMB, however, the number of businesses engaged in the sale of merchandise subject to the MITOR has increased. The most currently available data from the U.S. Census Bureau indicates that, between 2005 and 2016, the number of businesses subject to the MITOR grew from 15,924 to 37,206, or an average increase of 1,935 new businesses a year [(37,206 businesses in 2016 – 15,924 businesses in 2005) ÷ 11 years].<sup>4</sup> Assuming this growth rate continues in 2019 through 2022, the average number of established businesses during the three-year period for which OMB

<sup>2</sup> 81 FR 2860 (Jan. 19, 2016); 81 FR 21549 (Apr. 12, 2016).

<sup>3</sup> Most of the estimated start-up time relates to the development and installation of computer systems geared to more efficiently handle customer orders.

<sup>4</sup> Conceptually, this might understate the number of new entrants. Given the virtually unlimited diversity of retail establishments, it is very unlikely that there is a reliable external measure; nonetheless, as in the past, the Commission invites public comment that might better inform these estimates. For example, many online marketplace sellers that use Amazon.com Inc.’s marketplace to sell to customers have agreements which provide that Amazon handles packaging and shipping the products to customers. Whether Amazon.com is also the entity responsible for sending customers delay notices when necessary could affect which entity is subject to MITOR disclosure requirements, Amazon or the individual marketplace seller.